

Abogado

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HBA PRESIDENT'S INSTALLATION SPEECH

Comentario by: Dan Guadalupe

The following is my speech as Incoming President of the Hispanic Bar Association given at the 11th Annual Dinner Dance held at the Meadowlands Hilton, Secaucus, N.J., on October 19, 1991.

I feel it important for all *Abogado* readers to have the opportunity to understand my message and my goals for the HBA.

Good evening, Honorable Judges and Senators, distinguished guest, ladies and gentlemen, my name is Dan Guadalupe, and I am the new President of the Hispanic Bar Association of New Jersey. Thank you so much for being here tonight supporting the HBA. I have some brief remarks that reflect my philosophy of what the HBA is and where it should go.

There are very few occasions when the door of opportunity opens up for an individual an opportunity to lead others and effect change. That door has been opened for me tonight, and I accept the challenge with honor and a deep sense of commitment. It is my goal to transform the HBA into the source of leadership that the Hispanic community of New Jersey so desperately needs.

When I was younger, I competed in oratory or Spanish forensic competitions in which I always gave speeches from the writings of an illustrious Puerto Rican attorney and independence leader by the name of Jose De Diego. As I look back, his writings taught me one thing that I have brought with me to the HBA. It is the knowledge that attorneys are the source of leadership for any society. By virtue of our training in the art of advocacy and critical analysis, in defining what is and is not just, we occupy a very special place in the forging of our nation. However, as *Hispanic* attorneys, the whole picture changes.

As Hispanic attorneys in this nation, in this State, we have a duty, a greater responsibility to carry the torch of justice for the Hispanic community. No one else in the Hispanic community is better suited to do the job. We have in our possession a key that cannot be taken away by any politician, by any interest group, by any corporation, or by any institution of government. That

key is the one that opens the bar that divides the bench where the judge sits from the rest of the courtroom. It is our unique privilege to cross that bar that makes us different from any other Hispanic group and what imposes on us a greater duty -- a duty to be the advocates for our community as the counselors, the protectors, and the defenders. No other Hispanic group can cross that bar and fight the legal battles for our community.

You well know the kind of Hispanic community that I am alluding to: the one that is displaced in legislative redistricting; the one that is ignored for truly influential government positions, the one who has to fight for a fair and equitable education, the one who has to reassert its citizenship time after time after time. It is this very community, *Aspira*, *Mecha*, *Focus*, *La Casa De Don Pedro* the Statewide Chamber of Commerce, Hispanic children, the elderly, *Colombianos*, *Dominicanos*, *Puertorriquenos*, *Chicanos y Cubanos*, *Centro y Sur Americanos* -- These are the ones who desperately need our leadership, our counseling and our support.

Many of us, in our struggle to succeed individually, turn back our faces and fail to see the missing link explaining why the 1980's was not the decade of the Hispanics and why the same story may be repeated in the 1990's. We in the Hispanic community need leaders. The Hispanic community is presently a ship without a helm.

My belief is that Hispanic Bar Associations, both local and national, should become that helm. As president of the HBA during this new term, my goal is simple; to make the resources of our members, and our leadership, available to our community, not just by way of letter or by being present at some dinner dance, but by becoming true advocates of the goals of our community in this state and satisfying the hunger for leadership and advice that permeates our community. The torch that will illuminate the way is there. We, the Hispanic attorneys, only have to light it.

Thank you very much.

HBA/HNBA Member Carlos Ortiz and Other Attorneys Meet with President Carlos Salinas de Gortari To Discuss the Proposed North American Free Trade Agreement

By: Estela De La Cruz



From left to right.- Carlos Reyes, President of Mexico, Carlos Salinas de Gortari, HBA of NJ member/HNBA President-Elect, Carlos G. Ortiz, Lic. Javier Zarco Ledesma.



From left to right.- Mari Carmen Aponte, J. David Peña, Hon. Jim Coronado, Manuel Sanchez, Abelardo Valdez, A. Baltazar Baca, Hon. Cruz Reynoso, Mario Obledo, Dolores S. Atencio, Carlos Reyes, President Carlos Salinas de Gortari, Hon. Celeste M.C. de Baca, HBA of NJ member/HNBA President-Elect, Carlos G. Ortiz, Richard Gonzales, Mary T. Hernandez, Lic. Javier Zarco Ledesma.

A delegation representing the Hispanic National Bar Association (HNBA) met on January 10, 1992 with Mexican President Carlos Salinas de Gortari to discuss the proposed North American Free Trade Agreement (NAFTA) and related issues. Carlos Ortiz, President-Elect of HNBA, and member of the Hispanic Bar Association of New Jersey, as well as current HNBA President, Dolores Atencio, were part of the delegation which included a handful of leading Hispanic attorneys from all parts of the United States.

The discussion with President Salinas was part of a series of meetings with Mexican government officials and business representatives, including Dr. Jaime Jose Serra Puche, Secretary of Commerce and Industrial Development, Mexico's Department of Labor, Mexico's Environmental Protection Agency (SEDUE), members of the Mexican Senate, and representatives of the Mexican private sector, including the Mexican Investment Board, Bacomext and CEO's of leading Mexican companies. The delegation also met with United States Ambassador to Mexico, John Negroponte. The discussion centered on the status of NAFTA negotiations, labor and environmental issues, prospects for the rebounding Mexican economy, and business and professional opportunities for the Hispanic community. HNBA and Mexican officials agreed that

Hispanics in the United States will play a major role in securing approval of NAFTA by the U.S. Congress.

Although the final draft of NAFTA has not yet been completed, it is expected that its terms and effects will be good for all the people in the entire Western Hemisphere.

Once signed by President Bush, President Salinas and Prime Minister Mulroney, it will eliminate the many existing economic barriers to free trade, and will make all of us more competitive in the emerging world economy.

Hispanics in particular stand to benefit greatly from increased opportunities to do business with Mexico because of their culture, language, and affinities to Mexico. As a result of the HNBA's meetings with Mexican government and business leaders, Mexico appears ready, willing and enthusiastic to work with U.S. Hispanic attorneys and other professionals to make the benefits of NAFTA descend to the benefit of all Hispanics.

The HNBA and many local HNBA Bar Association affiliates therefore strongly support the proposed NAFTA and urge you to do the same. The Hispanic Bar Association of New Jersey is proud to have one of its own, Carlos Ortiz, participate in these historic sessions.

TWO PAST HBA PRESIDENTS ASCEND TO THE BENCH

by: Estela de la Cruz



Judge Hector E. De Soto

In October, 1991, Hector E. De Soto, one of the founders of the Hispanic Bar Association (HBA), ascended to the bench as Superior Court Judge in Essex County. Judge De Soto has a proven record of success in the legal and human resource management fields. His education and work experience have provided him with a well-rounded and solid background for his judgeship.

Judge De Soto is a graduate of Rutgers University School of Law, in 1976. Initially, he began to work as an Assistant Deputy Public Defender with the State Public Advocate's Office. Thereafter, Judge De Soto was in private practice both in Newark and Hoboken, handling real estate, immigration, S.S.A. cases and civil litigation as well as municipal court cases.

In 1982, Judge De Soto joined the Newark Board of Education as Associate Counsel from 1982 to 1983. This involved litigation involving purchase contracts, revocation of tenure, school election matters, Unfair Labor Practice and other related civil matters. Moreover, he handled real estate transactions for the school district, matters arising

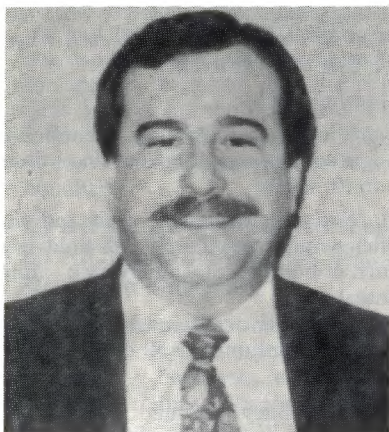
from the Human Resources area, and served as counsel to the School Board Superintendent of Elections.

Judge De Soto was promoted to Executive Director of Human Resource Services with the Newark Board of Education, being responsible for all aspects of hiring and discharge, salary and wage administration, all benefits, teacher certification records, and in addition, participated in labor negotiations overseeing three labor-management professional improvement committees. He was a member of the Executive Superintendent's Cabinet and was involved in the development of policy and was the Certifying Officer for the district with regard to Civil Service matters. His supervision involved 40 professionals and support staff and administered a budget of \$20 million, serving the district's 8,700 permanent and 3,000 temporary staff.

Thereafter, Essex County College, in Newark, New Jersey was honored by having Judge De Soto on its staff as Director of Personnel from 1985 to 1988. This involved responsibility in hiring and discharge, wage and salary administration, pension and benefits, and numerous other employee-related matters. It is important to note that Judge De Soto was responsible for providing input at the policy level with regard to current legal employment issues and acted as the Affirmative Action Officer for the College. He was then promoted to Special Assistant to the President for Labor Relations and Legal Affairs at the County College, having maintained this position from 1988 until he was appointed by Governor Florio to the Superior Court Bench. He served as chief negotiator for the College in all collective bargaining with the seven college bargaining units, and served on the President's Cabinet in the capacity as in-house counsel. He was also the Affirmative Action Officer for the College.

Judge De Soto resides in Newark, New Jersey with his wife and their two daughters.

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Judge Roberto Alcazar

Judge Alcazar began his legal career as a Deputy Attorney General in the Division of Criminal Justice following his graduation from Rutgers Law School-Camden where he was a lecturer in Law in the subject of Spanish for Lawyers. At the Division of Criminal Justice, he was assigned to prosecute "Medicaid Provider" fraud cases. Simultaneously with his assignment to the medicaid fraud unit, he prosecuted many matters involving violations of the Wage and Hour and Workplace Standard Legislation and Violations of the Crew Leaders Act in the South Jersey farm area. This experience launched him into coordinating the Sweat Shop Task Force and at the request of Attorney General Zazzali, he became liaison between the Attorney General and the Commission of Labor. The mission of the task force was to eradicate the proliferation of Industrial Homework and to identify and prosecute violations of minimum wage and other abuses by unscrupulous employers. By far, the greater number of victims were members of the Hispanic community.

In January, 1983 the former HBA President went on to the civil side of the law by switching to the Division of Law, still within the New Jersey Attorney General's Office,

where his first assignment was representing and advising the Division of Youth and Family Services (DYFS) in Monmouth County. Two years later, he joined the Tort Litigation Unit where he remained until his appointment to the bench in 1992. There he represented New Jersey Transit Bus and Rail Operations, the State of New Jersey and other state entities and employees as defendants in personal injury actions under the New Jersey Tort Claims Act. While in that assignment, at the request of Attorney General Kimmelman, he also helped coordinate the Kosher Food Fraud Unit within the Division of Consumer Affairs.

Among his professional affiliations beyond the HBA, Judge Alcazar is an active member of the New Jersey State Bar Association, having chaired the Lawyers in Public Employment Committee and the Interbar Relations Committee. He was also the Chair-Elect of the Minorities in the Profession Section, having actively participated in the efforts to have the State Bar Association expand its Board of Trustees to include two seats for minority representation at the top level in that organization.

His tenure as president during the HBA's tenth anniversary was noted with an extensive program of continued legal education, and a greater presence in the Hispanic community and the State Bar Association thereby promoting better communication between the two. He was also instrumental in the efforts to adopt the symbol of the HBA, our present logo.

Judge Alcazar is presently sitting in Elizabeth, New Jersey presiding over Union County Worker's Compensation matters. He resides in Elizabeth.

We wish both Judge De Soto and Judge Alcazar the best of luck in their new endeavors and wish to express our gratitude for all their efforts on behalf of the Hispanic Bar Association of New Jersey.

GUARANTY ASSOCIATIONS by: Margarita Echevarria-

The inevitable comparison between the savings and loan debacle and the publicized financial difficulties of some insurers has increasingly drawn the attention of the public. Insurer solvency concerns have led to an increased focus on legislation limiting insurer investments, requiring annual auditing of financial statements and educating consumers on the purpose of Guaranty Associations.

In fact, regulators prodded by such increased scrutiny have sought to assure the public that a safety net does indeed exist in the form of Guaranty Associations. In 1984, for example, when regulators in a number of states were grappling with the matter of rescuing Baldwin-United contract holders, twenty-one states had not established any Guaranty Association. Today, all fifty states have enacted the necessary legislation to organize and fund their own Guaranty Associations. ⁽¹⁾

The stated purpose of such legislation is to provide funds to protect resident policyowners, insureds, beneficiaries, annuitants, payees and assignees of life, health and annuity contracts ⁽²⁾ issued by life insurance companies, against failure in the performance of contractual obligations due to the impairment or insolvency of the insurer that issued the policies or contracts. Guaranty Associations stand today as a state's insurance equivalent to "FDIC". They are funded by imposing an annual assessment on member-insurers authorized to transact an insurance business in the state. ⁽³⁾ Member-insurers organized in a non-profit corporation called a "Guaranty Association" are statutorily required to cover outstanding obligations of an impaired or insolvent insurer under a court order of liquidation, rehabilitation, or conservation. The Guaranty Association will pay the benefits due under such an impaired/insolvent insurer's contract. But, that is not their only recourse, they also have the power to guarantee such contracts, assume or reinsure such liabilities or arrange for the replacement of such policies by substantially similar contracts.

The following outline of New Jersey's Life and Health Guaranty Act, effective January 1, 1991, will generally explain who is covered,

what contract are covered, and to what extent a person can expect to be protected when an insurer becomes insolvent.

Who is Covered?

- (1) regardless of residence: beneficiaries, assignees or payees of policyowners described in (2) below.
- (2) (a) resident policyowners of individual policies and group certificate holders and contract-holders of unallocated annuity contracts or
(b) non-resident owners of the above contracts, but only under all of the following conditions:
 - (1) the policy is issued by a domiciled insurer;
 - (2) the domiciliary insurer never held a license where the non-resident owner resides;
 - (3) the insured's resident state has a similar association; and
 - (4) the insured is not eligible for coverage by its resident association.

In sum, resident group certificate-holders and resident individual and qualified non-resident individual insureds will be covered. Non-resident group certificate-holders will not be covered ⁽⁴⁾.

Which Contracts are Covered?

- (a) Individual life, health, annuity and supplemental contracts issued by member insurer and
- (b) Group life, health, annuity and supplemental contracts, and individual and group long term care policies and unallocated annuity contracts within certain limitations.

What is the Extent of Coverage? ⁽⁵⁾

The benefits for which the association may become liable are the lesser of the insurer's contractual obligations, if it were not impaired or insolvent or with respect to any one insured individual regardless of the number of policies or contracts:

- (1) Life: \$500,000 in death benefits, but not more than \$100,000 in net cash surrender and net cash withdrawal values;

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(2) Annuities: \$500,000 in present value annuity benefits, including net cash surrender and net cash withdrawal values, but not more than \$100,000 in net cash surrender and net cash withdrawal values for annuity benefits; provided, however that in no event shall the association be liable to any one insured for more than \$500,000 in the aggregate for the above benefits;

(3) Health: Unlimited benefits; or

(4) Unallocated Annuity Contracts: \$2,000,000 in benefits.

Generally, contracts not covered by Guaranty Funds, to name just a few, include variable life and annuity contracts, contracts issued outside of the United States covering non-citizens, and any portion of a policy under which the risk is borne by the owner. The regulations also usually exclude those portions of a reinsured obligation which the impaired insurer has assumed or that portion of a contract to the extent its promised rate of interest exceeds the rates stated in the regulation.

Since policies in force have an average death benefit of \$25,000 ⁽⁶⁾, most policyholders will be covered in the event of the impairment/insolvency of an insurer.

Among the problems regulators have recently sought to avoid is consumer confusion about the operation of, and or coverage available through, state Guaranty Associations. To date, thirteen states have enacted or are in the process of adopting regulations requiring insurers to issue prior to or with each new policy a disclosure summary and disclaimer statement concerning the limitations of that state's Guaranty Act. Normally, the disclosure summary explains the limits of coverage and amount of benefits available through the Guaranty Fund, while the disclaimer prohibits insurers and their agents from using the existence of the Association to induce the purchase of insurance. The message the regulators want clearly projected to the consumer is that they should not rely on the availability of coverage under the Guaranty Association when selecting an insurer. The following sample disclaimer statement is the "Missouri Notice" which became effective in April of 1989:

"THE MISSOURI LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION MAY NOT PROVIDE COVERAGE FOR THIS POLICY. IF COVERAGE IS PROVIDED, IT MAY BE SUBJECT TO SUBSTANTIAL LIMITATIONS OR EXCLUSIONS, AND MAY BE DEPENDENT UPON CONTINUED RESIDENCE IN MISSOURI. THEREFORE, YOU SHOULD NOT RELY UPON COVERAGE BY THE MISSOURI LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION IN SELECTING AN INSURANCE COMPANY OR IN SELECTING AN INSURER POLICY. INSURANCE COMPANIES AND THEIR AGENTS ARE PROHIBITED BY LAW FROM USING THE EXISTENCE OF THE MISSOURI LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION IN SELLING YOU ANY FORM OF AN INSURANCE POLICY, OR TO INDUCE YOU TO PURCHASE ANY FORM OF AN INSURANCE POLICY..."

States that have adopted this type of regulation have also generally required that a notice be issued to policyowners of contracts (for example, variable contract) not covered by the Guaranty Association. A list of the states which have recently enacted such legislation is provided below. ⁽⁷⁾

Unquestionably, the enactment of Guaranty Association legislation by the fifty states has raised the comfort level of the insurance buying public. It has not however resolved all concerns regarding the ability of the industry to meet the demands triggered by insurance insolvency. Thus, the focus today is on whether such associations are adequately funded to cover an ever increasing level of obligations.

It is reasonable to predict that in this current environment, you will see further regulatory enhancement of this legislation.

FOOTNOTES

¹ The District of Columbia has ^{not} also established a Guaranty Association to date.

² Generally, supplemental contracts and funding agreements are also included within the scope of such legislation.

³ The Association may also cover insurers that were once authorized to do business in the state, for e.g. New York, Wisconsin.

⁴ A recent trend in amending Guaranty Association legislation has been to limit coverage to residents.

⁵ These figures may vary by state. For example, N.Y.I.L. Section 7708(b) allows coverage up to \$500,000 in death benefits under life insurance policies, no limit on coverage for group/individual health, and \$1,000,000 for all benefits under any group annuity contract. But see Texas Art. 21-28D, Sec 5 (c) which covers up to \$200,000 in health insurance benefits.

⁶ ACLI, Statistical Bulletin No. 90-11 (22/90)

⁷ Alaska, Arkansas, California, Hawaii, Kansas, Missouri, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wyoming.

Margarita Echevarria is one of the founding members of the H.B.A. and served as its first President. She currently practices in Newark, New Jersey.

HBA HOLDS FIRST 1992 GENERAL MEMBERSHIP MEETING

By: Estela De La Cruz

The first general membership meeting in 1992 was held at the Secaucus Meadowslands Hilton on January 30th, commencing at approximately 8 p.m. Attending were approximately 50 members, many of whom were joining the organization for the first time. HBA President, Dan Guadalupe, presided over the meeting, which lasted for two hours and included an informal light buffet and a cash bar.

Various topics were discussed which will be taken into consideration by the HBA Board of Trustees, including the adoption of a mentor system for new attorneys where experienced HBA attorneys, on a limited basis, assist their new colleagues in the legal profession. This suggestion was carried a step further where it was requested that law students be allowed to participate in the mentor program. Other suggestions and requests were for by-laws to be drafted for the creation of different HBA chapters based on geographic regions of the state which would allow easier accessibility to meetings, and thus promote having more general membership meetings. The theory is that the different regional chapters can in turn have one meeting to correlate and unify efforts for commons goals.

A motion was also passed by the general membership present which allows the HBA Board to look further into the feasibility of the Lawyers Referral Service Program as

outlined in a report submitted to the HBA Board by HBA member, Regino De La Cruz. The Program's cost effectiveness, management and usefulness are all important issues to be taken up with the HBA Board before any final decision is made.

Finally, it was clear at this meeting that the membership requests more general membership meetings to take place, with at least 2-3 weeks notice to be provided to HBA members. A suggestion was also made that they be dinner meetings such as those held by other bar associations for the convenience and pleasure of HBA members. Thusly, the next general membership meeting date which was scheduled for April 23, 1992, has been postponed. The new date and location is to be announced.

PLEASE PLAN TO ATTEND THESE FUTURE HBA EVENTS

APRIL, 1992: MUNICIPAL COURT PRACTICE SEMINAR. This event will feature HBA members, including Judge Myrna Milan and Judge Jose Fuentes, outlining and discussing the essentials of municipal court practice. The location will be announced.

Look for further details on this Seminar in the mail.

HBA OPPOSES MODIFICATION OF HABEAS CORPUS STATUTE

by Estela De La Cruz

On November 7, 1991, pursuant to the HBA Board's resolution of October 29, 1991, the HBA formally opposed the proposed statutory modification of the federal Writ of Habeas Corpus. HBA President Daniel Guadalupe wrote various letters to New Jersey Congressmen and Senators expressing the HBA's opposition to S. 1241 and H.R. 1400, which are part of the 1991 Crime Bill.

Specifically, almost buried in this legislation is a single sentence which would virtually

destroy, rather than reform, our nation's system of federal habeas corpus review. Reference was made to the sentence in Sec. 205 of Title II of the bill which would prohibit the federal courts from granting relief based on any claim which had been "fully and fairly adjudicated" by the state courts. The proposal did not require that the state court's prior ruling have been right, but only that it have been handed down in a procedurally orderly way. The concern was that even if the state court

Continues next page.

HOW TO SURVIVE A RECESSION

By: Luis R. Terrero, C.P.A.

This is the second of a series of articles that will help your business survive, or perhaps even prosper, during the current recession. It is oriented to the small to medium-sized firms.

In the last article, we discussed several concepts which, if implemented, could greatly improve a business' economic viability.

A thorough cash flow analysis is essential because it allows you to spot trends and highlight inefficiencies. An analysis of cash flow, the receipts and disbursements of a business, is always useful but it becomes particularly important when a significant change or milestone is reached, such as bringing in new partners, diversifying your services, significantly adding to staff, or opening a new office.

A key ingredient before the analysis is prepared is to have adequate financial records. You must keep detailed financial records that make sense for you as a business manager, and not to the I.R.S. or your accountant. Your firm's general accounts should be in a system that breaks down expenses, receipts, and other categories into real-life specifics. Computerized records greatly aid the preparation and analysis of cash flows. For example, disturbing patterns can be highlighted relatively easily if the records are computerized.

Cash flow analysis should be prepared every 12 to 18 months and updated every time the firm contemplates a major change.

Luis R. Terrero, CPA, provides auditing, tax, and consulting services to business and individuals from his office 63 Somerset Street, Suite 110, North Plainfield, New Jersey, 07060. He may be reached at (908) 668-1206.

HBA OPPOSES MODIFICATION OF HABEAS CORPUS STATUTE

had erroneously rejected a valid claim, that the prosecution had hidden evidence of the defendant's innocence from the jury, coerced a false confession, discriminated by race or ethnicity in selecting the jury, or fabricated the evidence used to convict, the federal courts would be forbidden to intervene.

In effect, federal habeas corpus would be reduced to an empty, time-consuming ritual, concerned only with details of procedure rather than with justice. It was argued that the so-called "full and fair" provision has nothing to do with accelerating habeas corpus and that

"Factoring" is often an alternative that is overlooked. Given the right conditions, it may be a viable option for a firm that has a large amount of outstanding receivables. Factoring, the sale of accounts receivable to a bank or other financial institution, is attractive in today's economic environment. If your firm does business in the governmental sector, you can easily factor receivables from municipal, state, and federal agencies and organizations. Receivables from Fortune 500 corporations are also candidates for factoring. The paperwork when factoring receivables is not as extensive as compared to applying for a conventional loan. However, keep in mind that the effective interest rate that will be paid must be weighed against the benefits of the factoring arrangement.

Finally, smartly targeted marketing and public relations is essential for your firm. Advertising is only one aspect of a successful, ongoing marketing effort. Yes, it is unusual for an accountant to say this but I believe that firms in the service sector must pay particular attention to marketing. Many articles and books exist today that emphasize "making the customer king", "staying close to the customer", and upgrading the "after the sale" component of your business. There are many ways to focus on marketing. They range from hiring a consultant to merely listening to tapes in your car. The key is to PLAN and implement, monitor and evaluate the steps in the plan.

this is provided for by another section of the crime bill. The change would do nothing to foster efforts against violent crime, since habeas review affects only those offenders who have already been caught, convicted and sentenced. Moreover, the federal courts' power is to ensure uniform application of the United States Constitution in all fifty states. In view of the disproportionate high numbers of Hispanic affected by the criminal justice system, this issue was of significant interest to the HBA and was addressed by the HBA president.

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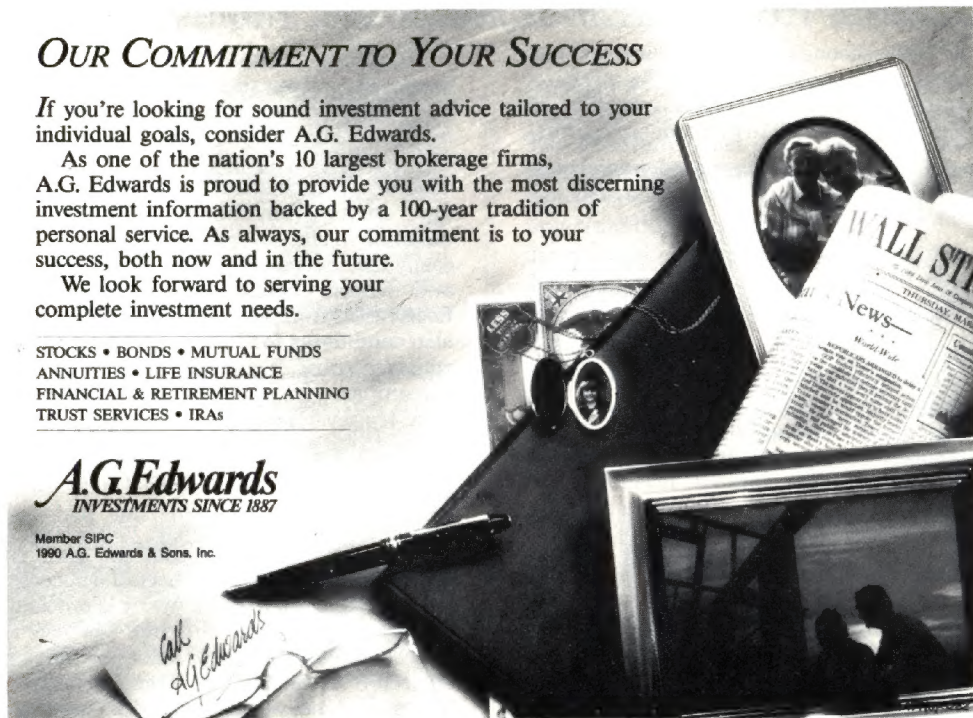
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HISPANIC BAR ASSOCIATION AND NEW YORK UNIVERSITY

Join to Promote Career Internship Program

The Hispanic Bar Association (HBA) has accepted an invitation from New York University (NYU) for a career exploration program involving NYU students being screened for employment positions with offices of HBA members who are interested. NYU Internship Coordinator, Aida Rodriguez, is the liaison for this exciting program which is now available to all members of the HBA.

Through this unique arrangement between the HBA and NYU, experienced NYU recruitment professionals can help HBA members find undergraduate students with appropriate skills for long or short-term employment. Nearly ten percent of NYU undergraduate students are New Jersey residents, many of whom are eager to gain practical experience in the field of law. Students are involved in various fields of study and are available to work on research, computer programming, communication and other general office duties. Compensation requested, depending on experience, is between \$6.00-\$10.00 an hour.

NYU has indicated that it will screen interested, skilled students for interviews. Furthermore, NYU will publicize job vacancies throughout the College of Arts and Sciences, can arrange interviews, and can provide supervisor's evaluation forms to the interested law firm. NYU will also follow-up through written and oral communication with the employers concerning student employees and can assist and monitor student employee when necessary and requested. This service is offered for HBA members exclusively.

To list a job vacancy or for further information, contact Aida Rodriguez, College of Arts and Science Internship Coordinator, 100 Washington Square East, New York, NY 10003; Tel. (212) 998-8147; Fax (212) 995-4141. If you have any other question concerning this service, you can also contact HBA Vice-President, Estela De La Cruz at (201) 507-8998.

HISPANIC BAR ASSOCIATION OF NEW JERSEY

List of Officers and Trustees for 1991 - 1992 Term

President

Daniel R. Guadalupe, Esq.
Norris, McLaughlin & Marcus
721 Route 202 - 206
P.O. Box 1018
Somerville, NJ 08876-1018
(908)722-0700

Vice-President

Estela De La Cruz, Esq.
Farabaugh, Frieland
210 Clay Avenue
Meadowlands Center
Lyndhurst, NJ 07071
(201) 507-8998

Secretary

Alicia Olivera Valle, Esq.
Assistant U.S. Attorney
970 Broad Street
Newark, NJ 07102
(201) 621-2769

Treasurer

Lawrence M. Rosa, Esq.
16 Robert Drive
West Windsor, NJ 08512
(609) 275-5787

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Aida Cabello, Esq.
Assistant Counsel to the Governor
Office of the Governor
CN-001
Trenton, NJ 08625
(609) 777-4082

Immediate Past President

Edwin Flores, Esq.
152 Market Street
Paterson, NJ 07505
(201) 523-6666

Trustees

Jorge Godoy, Esq.
Office of the Public Defender
101 Haddon Avenue
Second Floor
Camden, NJ 08103
(609) 757-2626
(term Expires 9/94)

Felix Orraca, Esq.
RULC
15 Washington Street
Newark, NJ 07102
(201) 648-5576
(term expires 9/94)

Robert P. Martinez, Esq.
Martinez & Jennings
770 River Road
West Trenton, NJ 08628
(609) 883-8000
(term expires 9/93)

Elio R. Mena, Esq.
57 Sussex Avenue
Newark, NJ 07103
(201) 430-2255
(term expires 9/92)

Rafael Perez, Esq.
Riker, Dazig, Scherer & Hyland
One Speedwell Avenue
Headquarters Plaza
Morristown, NJ 07960
(201) 538-0800
(term expires 9/93)

INTERPRETER IN THE COURT

By: J. David Alcantara

The proper use of a qualified, experienced and professional court interpreter or translator is of fundamental importance to protect the interests of the foreign language client and the integrity of the judicial process.

Additionally, the use of an interpreter prevents prolonged discovery proceedings and trial as well as avoids improper representation and law suits stemming from due process objections. See Frankentheler and A.L. McLauter, "A Call for Legislative Action: The Case for a New Jersey Court Interpreter's Act", 3 Seton Hall Legis. J. 125, (1978); "Equal Access to the Courts for Linguistic Minorities," Final Report of the New Jersey Supreme Court Task Force on Interpreter and Translation Service, May, 1985 (e.g., "Task Report"); and *Alfonso v. Board of Review*, 89 N.J. 41, (1982); *State of Linares*, 192 N.J. Super. 391, (1983).

The Hispanic, or foreign language speaking attorney with a largely foreign clientele, must have the capacity and skill to properly employ the interpreter in the court system. The use of an interpreter often results in chaos, when the court, court personnel, police officers or even the interpreter himself or herself bring certain misconceptions as to the functions of an interpreter.

As of 1985, the total number of interpreter-assisted proceedings in the State of New Jersey was 7,300 per month. Of this total, Hudson County accounted for 31% of the use of an interpreter in some form or another. It is noteworthy that approximately eighteen percent (18%) of New Jersey households speak a language other than English. See "Task Report," pages 1 and 18.

The facts clearly indicate a growing trend in the New Jersey general population towards linguistic variety.

A common misconception is that the foreign language litigant "really" understands English. Indeed, some foreign language litigants will pretend language ignorance as a pretext, to avoid testifying or in the hope that the communication barrier will be of some benefit.

Many foreign language speakers may not understand the legal proceedings due to any or a combination of the following factors. The properly informed attorney must first assess the source of the problems:

- a. Total or near total lack of knowledge of the English language.
- b. Inaccurate understanding of the English language.
- c. Hearing loss or physical/mental dysfunction of some form.
- d. Ignorance as to the events taking place and the need to feel relaxed during the interpreting process and to know when to say "I don't understand."

There are other factors which, especially the Spanish speaking attorney, have seen crop up from time to time. In any case, an interpreter will nearly always resolve the language barrier dilemma.

Another typical misconception among the general public, especially with reference to Spanish speaking litigants, is that the interpreter must, as an example, only speak "Puerto Rican Spanish" in order to know how to translate the Spanish spoken by someone from Puerto Rico. This is perhaps correct in some form, e.g., understanding minor regional inflections or idiomatic expressions. The myth here, however, is that there is more than one form of official Spanish. This is not so. There is only one Spanish language and regional variety merely adds spice to the capacity of the Spanish language but the base is the same. An example frequently employed by this writer is to say that the English spoken by say, a resident from the deep south in Mississippi is not English but "Mississippian."

Here are some important tips for the proper employment of an interpreter or translator:

1. Obtain a competent interpreter with experience, education, certification, and an understanding of the ethical and professional ramifications, etc.

Continues next page.

2. Inform the interpreter, briefly, as to the nature of the case prior to the interpreting and, with some discretion, permit the interpreter to ask your client general questions prior to the proceedings.
3. Inform your client, and the interpreter, that the interpreter is a neutral professional and not an attorney or advisor and that his/her instructions under oath are to convey the message and words as exact as possible into the foreign language.
4. Speak loudly, slowly and clearly. Look at the client or litigant and not the interpreter. The use of an interpreter does slow down the proceeding but it would be much slower without an interpreter.
5. Speak in short sentences, not simultaneously, unless the interpreter conveys reassurance that he/she can conduct the difficult task of a simultaneous interpretation.
6. Avoid idiomatic expressions even where they are clearly more expressive in English. Ideally, an interpreter should interpret anything but, for example, the expressions "he has a mental block" or "she bit the dust" a ludicrous meaning if translated literally. The attorney could simply say "He can't recall" or "She passed away".
7. If some documents must be read into evidence, permit the interpreter to read it before trial or to read out loud directly to the court. The court stenographer, unless he or she writes in Spanish or the foreign language, will have to wait.

8. Communicate orally. Do not use hand signals unless, of course, the language is sign language.
9. If the interpreter hesitates, it may be due to any of the above or perhaps the litigant or witness is employing a slang term for which the English language renders no equivalent form.
10. The interpreter, court and witness must understand certain cultural traits. For example, in this writer's perception, it is a Hispanic cultural trait, as a sign of respect, for the person to not look directly at the eyes of the attorney or Court. This is an indication of respect. However the same trait is often misinterpreted in English or American culture as sign of hiding something or not being sincere.

An interpreter is a professional who orally converts messages. A translator is one who converts messages in written form. It is important to remember the words of one of the most noted linguists, Benjamin Lee Whorf, at page 221 in his noted work, *Language, Thought and Reality*:

"..Users of markedly different grammars are pointed by their grammar toward different types of observations, and different evaluations of externally similar acts of observation, and hence are not equivalent as observers but must arrive at somewhat different views of the world."

J. David Alcantara is a private practitioner in Atlantic City.

NEWSBULLETIN

IGNACIO PEREZ, an acting Judge of the Municipal Court of Hoboken since 1987, has been appointed an Additional Judge with a three year term to expire in October 1994. Judge Perez maintains his law office in Jersey City, where he continues his solo practice.

In September of 1991, Ignacio was appointed by the Supreme Court of New Jersey to its District Ethics Committee for Hudson County. He chairs the Hispanic National Bar Association Sales and Promotion Subcommittee for the 1992 Convention, Co-sponsored by the Hispanic Bar Association of New Jersey, scheduled to take place in Atlantic City on

September 24-27, 1992. Moreover, Ignacio is a founding member and Secretary of the Hispanic Leadership Alumni Association, Inc., a Non-Profit Corporation of Latino Professionals organized in 1990. He is also a Charter Member and Trustee of the Jersey City Borinquen Lions Club.

LILIA MUNOZ, ESQ. was elected trustee of the Hudson County Bar Association this January. She also sits as a member of the Supreme Court Committee on the Unauthorized Practice of Law in Part B which covers Hudson and Essex Counties.

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1992 Membership Demographic Questionnaire

The HBA requests each member to provide it with certain demographic information. The answers to the questions on this form will be used solely to provide statistics which the Association can use in identifying and advancing our members' interests. No individual data will be released to any person. Your cooperation will greatly enhance the Association's ability to serve your needs. Your responses may be anonymous. Please return to HBA address in Newark, New Jersey.

Male _____ Female _____ Your current age in years: _____

Your year of Bar Admission in N.J. _____ Your year of Law School graduation _____

Name of your Law School _____

County of Residence: _____

County of Practice: _____

Marital Status: () Single, () Married, () Separated, () Divorced, () Widow(er)

Number of family members residing with you: () 1, () 2, () 3, () 4, () 5, () 6, () _____

Ages of above family members: _____

Number of family members attending college: _____

Number of family members attending private elementary/secondary school: _____

Approx. annual college cost in 1991: _____ Approx. annual private school cost in 1991: _____

Number of private vehicles in resident family: _____ Number of family members who drive: _____

Total cost of vehicle insurance in 1991: _____

Do you intend to buy a car during the next three years? () Yes, () No.

If yes, will you probably buy? () New, () Used, () Don't Know

Annual combined resident family income from all sources in 1991:

() \$40,000 to \$49,999

() \$50,000 to \$59,999

() \$60,000 to \$69,999

() \$70,000 to \$79,999

() \$80,000 and above

Following is a list of benefits or activities which have been discussed from time to time as possible Association initiatives. We need to know which are important to you. Please rank by numerical order, starting with 1, all these items in the order of your preference. If you think of others, add your ideas at the bottom and rank those also.

(a) _____ Hispanic Bar run lawyers referral service

(g) _____ Jobs bank for attorneys and office staff

(b) _____ Group major medical insurance plan

(h) _____ Continuing education seminars

(c) _____ Group dental insurance plan

(i) _____ Annual out-of-state conference

(d) _____ Professional self insurance pool

(j) _____ Paid scheduled workout time

(e) _____ Group credit union

(k) _____ Formal job pool for retirees

(f) _____ Advertising program promoting Hispanic attorneys

(l) _____ Seasonal general membership retreats

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The Hispanic Bar Association of N.J., Inc.

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Newark, N.J. 07102

Name _____ Date _____

Firm Name _____

Address _____

Tel. Nos.: Bus. (_____) _____ Home (_____) _____

Year Admitted to the New Jersey Bar _____

Other State(s) which you are licensed to practice (if applicable): _____

Areas of Practice _____

Enclosed find my check in the sum of _____ to cover my membership fee for the HBA for the calendar year 1992, as follows (mark one):

☐ Active Member (\$50.00) ☐ Associate Member (\$40.00) ☐ Law Student (\$15.00)

(No fee is required for members admitted in 1991 or 1992)

Please make check payable to the:

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☐ No, I do not want to have the above information published in the HBA Directory.

☐ Yes, I hereby authorize the Hispanic Bar Association of New Jersey to publish my Name, office address and telephone, and areas of practice in the HBA Directory. (Please sign below)

Signature

Employment Opportunities With the Administrative Office of the Courts Judiciary of the State of New Jersey

POSITION TITLE: Legal Assistant II, Judiciary, #92-14 (Deputy Ethics Counsel) **SALARY RANGE:** (G-31) \$46,152.95
\$64,620.39

LOCATION: Office of Attorney Ethics
Supreme Court of New Jersey
Trenton, NJ

REQUIREMENTS: Admission to the NJ Bar and two years of legal experience.

POSITION TITLE: Legal Assistant III, Judiciary #92-17 (2 positions) **SALARY RANGE:** (G-31) \$39,867.48
\$55,820.92

LOCATION: Central Appellate Research
New Jersey Judiciary
Trenton, NJ

REQUIREMENTS: Admission to the NJ Bar and one year of legal experience
EXCELLENT RESEARCH AND WRITING SKILLS ARE ESSENTIAL

POSITION TITLE: Ethics Analyst, #92-05 **SALARY RANGE:** \$12.14 per hour
Two Positions

LOCATION: Office of Attorney Ethics
Supreme Court of New Jersey
Trenton, NJ

REQUIREMENTS: Satisfactory completion of one year of law school or current enrollment as first year law student with substantial legal writing experience.

DESCRIPTION: Will perform legal research, and draft briefs and memoranda.
June through August: 35 hours per week
September through May: 15 - 20 hours per week

POSITION TITLE: Ethics Analyst (Hourly) #9213 **SALARY RANGE:** \$12.14 per hour
(Temporary Summer Position)

LOCATION: Disciplinary Review Board
Supreme Court of New Jersey
Trenton, NJ

REQUIREMENTS: Satisfactory completion of one year of law school or current enrollment as first year law student with substantial legal writing experience.

POSITION TITLE: Judiciary Law Clerk Approximately 400 positions available statewide for the 1993-1994 court term and about 80 for the 1992-1993 court term

REQUIREMENTS: Recent graduate of an ABA approved law school at time of Judiciary law clerk appointment.

POSITION TITLE: Judiciary Research Analyst III **SALARY RANGE:** (G-22) \$29,747.44
#92-08 \$41,649.20

LOCATION: Administrative Office of the Courts
Trenton, NJ

REQUIREMENTS: A Bachelor degree and two (2) years of experience in conducting research and analyzing data. Relevant experience may be substituted on year-for-year basis.

POSITION TITLE: Vicinage Assistant Chief Probation Officer **SALARY RANGE:** \$38,000
\$58,000

LOCATION: Warren County Courthouse
Belvidere, NJ

REQUIREMENTS: A Bachelor degree in a social or behavioral science and four years of managerial or administrative experience.

Applicants should submit a cover letter and current resume to: Carmen Flores, Judiciary EEO/AA Office, CN-966, Trenton, New Jersey 08635. Telephone (609) 633-6537.

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